

**GOVERNOR'S OFFICE OF EMERGENCY SERVICES
NOTICE OF PROPOSED RULEMAKING
CALIFORNIA CODE OF REGULATIONS
Title 19. Public Safety
Division 2. Office of Emergency Services
Chapter 2. Emergencies and Major Disaster
Subchapter 4. Dam Inundation Mapping Procedures**

NOTICE IS HEREBY GIVEN that the Governor's Office of Emergency Services (OES) proposes to adopt the regulatory procedures described below after considering all public comments, objections and recommendations.

PROPOSED REGULATORY ACTION

OES proposes to adopt the following Subchapter 4 and the following sections therein to Chapter 2, Division 2, Title 19 of the California Code of Regulations. The adopted regulations will provide standards for the implementation of Government Code Section 8589.5. The regulations have been previously adopted as Emergency Regulations that will expire on January 10, 2003; this proceeding is designed to adopt them permanently. The regulatory sections proposed for adoption are:

§2575 Short Title

§2575.1 Purpose and Scope of Regulations

§2575.2 Definitions

§2576 Notification

§2576.1 Method of Notification

§2577 Requirement for Map

§2577.1 Responsibility

§2577.2 Civil Engineering

§2577.3 Standard Requirements

§2577.4 Content of Technical Study

§2577.5 Content of Map

§2577.6 Enlargement of Dams

§2577.7 Notice of Noncompliance

§2577.8 Notice of Approval

§2578 Waiver from Inundation Map Requirement

§2578.1 Application for Waiver

§2578.2 Local Consultation

§2578.3 Notice of Determination

PUBLIC HEARING

OES has scheduled a public hearing on this proposed action as follows:

November 12, 2002 - Sacramento - 8:00-10:00a.m.
OES Headquarters - Multi Purpose Room 2 (East side)
3650 Schriever Ave.
Mather, CA 95655

The hearing room is accessible to persons with mobility impairments, and can be made accessible to persons with hearing or vision impairments upon a 15-day advance request to the OES contact person. Maps of the location are also available on request.

Oral or written comments will be accepted at the hearing. We request that oral comments made at the hearing above be also provided in writing to OES staff at the hearing or by the end of the comment period. If you plan to attend the hearing above, please contact Lindsey Hamilton at (916) 845-8738 so that OES may accommodate all potential interested participants

WRITTEN COMMENT PERIOD

Any interested person, or his/her authorized representative, may submit written comments relevant to the proposed regulatory action to OES. The 45 day written comment period opens September 27, 2002 and closes at 5:00 p.m. on November 11, 2002. OES will consider only comments received at the OES office by that time. You may submit written comments as follows:

Mr. Robert Mead
Planning and Technological Assistance Branch
Governor's Office of Emergency Services
Post Office Box 419023
Rancho Cordova, CA 95741-9023
Facsimile: (916) 845-8737
E-mail: Robert.Mead@oes.ca.gov

AUTHORITY AND REFERENCE

In accordance with Title 2, Division 1, Chapter 7, Sections 8567 and 8586 of the Government Code, the OES Director has the authority to adopt regulations to govern the administration of the Dam Inundation Mapping Program, in order to implement, interpret or make specific Government Code sections 8589.5

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Dam Safety Act, codified as Government Code Section 8589.5 was passed to establish procedures for emergency evacuation and control of populated areas below dams. The Dam Safety Act provides for the development of inundation maps by dam owners, map approval by OES, and development of emergency procedures by local governments to evacuate and control the risk areas. The Dam Safety Act requires that dam owners provide OES with a map of areas that might be flooded if a dam fails. OES reviews the maps and provides them to the affected local jurisdictions. The Act requires that these local jurisdictions develop emergency evacuation plans. This program also provides for a waiver from the inundation mapping requirement under certain conditions. OES is responsible for assuring that the waiver and exemption conditions are current.

In accordance with Title 2, Division 1, Chapter 7, Sections 8567 and 8586 of the Government Code, the OES Director has the authority to adopt regulations to implement this program. OES proposes to add a Subchapter to Title 19, Division 2, Chapter 2 of the California Code of Regulations (CCR) as detailed below to allow for consistency of application of the statute, as well as effect a standardized program that best meets the needs of local agencies in California to plan for evacuation.

Specifically, OES proposes the following sections:

§2575 Short Title - This is the name by which the regulations will be known.

§2575.1 Purpose and Scope of Regulations - This information explains why OES wants the regulations, what dams are affected and that these regulations do not limit the other powers of OES.

§2575.2 Definitions - This section provides a meaning of the words used in the regulations.

§2576 Notification - This explains when the dam owner will be notified of the requirement to produce a map.

§2576.1 Method of Notification - This explains that the owner will be notified in writing. If the dam owner can't be notified in writing, OES will do its best to notify the dam owner in some other way.

§2577 Requirement for Map – Government Code section 8589.5 requires the dam owner to produce an inundation map. This regulation requires that the

map meet certain requirements. These requirements for a map must be supported by a technical study.

§2577.1 Responsibility - The dam owner will be responsible for collecting the scientific information for making the map. The dam owner will also be responsible for updating and correcting the map.

§2577.2 Civil Engineering - This requires that a registered Civil Engineer or equivalent prepare the technical study and map.

§2577.3 Standard Requirements - This tells the dam owner:

- when to submit information for the first time;
- when to answer a request from OES;
- when OES requirements for a map has been satisfied;
- that OES does not require the submission of unnecessary information;
- that OES is allowed to extend the time to comply with these rules;
- that OES will not approve incomplete maps; and,
- that a final copy of the map OES says is approved must be provided to OES.

§2577.4 Content of Technical Study - This tells the dam owner:

- the information that must be considered in doing the technical study in preparation for doing an inundation map; and,
- requires that the dam owner tell OES how the results of the technical study were obtained.

§2577.5 Content of Map - This identifies:

- the type of map(s) allowed;
- the information that must be put on the map; and,
- where on the map that information must be placed.

§2577.6 Enlargement of Dams - This tells the dam owner if a dam or reservoir is made bigger:

- the type of information the dam owner must submit;
- the time in which he/she must give OES the information requested, and
- based on the information provided by the dam owner, OES may request a new inundation map. That the new map must be of the same standard as a map for a newly constructed dam.

§2577.7 Notice of Noncompliance - OES will tell the dam owner if they have not met the requirements in the regulations. OES will also tell the dam owner if an existing inundation map no longer meets the purpose of the law. In that case, the dam owner must provide a map that does meet specific standards in law.

§2577.8 Notice of Approval - OES will tell the dam owner in writing if their map is approved or not approved and explain why.

§2578 Waiver from Inundation Map Requirement - A dam owner can apply to OES to receive a waiver from producing an inundation map. A waiver may be given if a dam owner prepared map is not needed to see the effects of a dam failure and evacuation plans can be done without the map.

§2578.1 Application for Waiver - This identifies what information is needed for a waiver. This also tells how to apply for a waiver from inundation mapping.

§2578.2 Local Consultation - OES will consult with local officials to see if a waiver should be given to a dam owner.

The Office of Administrative Law approved the proposed regulations as emergency regulations on September 12, 2002.

OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

Government Code 8989.4 provides that the area of potential flooding shown on the inundation map produced as a result of Government Code 8989.5 shall be disclosed to any prospective transferee of property that is located in the area of potential flooding as specified in the statute.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS:

OES staff has determined that compliance with the proposed regulations do not result in any additional mandate to schools and local agencies above that required in the statute.

FISCAL IMPACT

Costs or savings to any state agency: OES staff has determined that compliance with the proposed regulations should not result in additional cost to public agencies when they are acting to comply with statute. Savings may occur due to the reduction in staff time because of standardized criteria for the preparation of an inundation map.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: OES staff has determined that compliance with the proposed regulations should not result in any additional cost to schools and local agencies.

Other non-discretionary cost or savings imposed upon local agencies:

OES staff has determined that compliance with the proposed regulations could indirectly result in cost savings to public agencies due to the reduction in staff time used to evaluate criteria and standards for the preparation of an inundation map.

Cost or savings in federal funding to the state: OES staff has determined that compliance with the proposed regulations should not result in additional federal cost or savings to public agencies when they are acting to comply with statute.

Statement of Referenced Material: OES will provide material referenced in the regulations or the source where the material is readily available to the public on request.

EFFECT ON HOUSING COSTS

OES staff has determined that these regulations will have no impact on the cost of housing. The reporting requirement, which may impose costs for disclosure reports on Dam Inundation areas, is contained in Civil Code section 1103 and is not a part of these regulations.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING ABILITY TO COMPETE

OES has made an initial determination that the Dam Inundation Mapping Procedures Regulations will not have any significant statewide adverse economic impact directly affecting business, including ability to compete.

ASSESSMENT ON EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

OES has determined that the Dam Inundation Mapping Procedures Regulations will have negligible positive impact on (a) the creation or elimination of jobs, (b) the creation of new businesses, and (c) the expansion of existing businesses, (d) nor contribute to the elimination of an existing business within the State of California.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

OES is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the Dam Inundation Mapping Procedures Regulations above those incurred in compliance with the statute.

BUSINESS REPORT

OES finds that the regulation requiring technical report substantiating the inundation map is necessary for the health, safety and welfare of the people of the State of California that such regulation apply to business.

SMALL BUSINESS

OES has determined that the proposed regulations will not affect small business. The purpose of these regulations is to provide information to local agencies to plan for evacuations in the event of a dam failure. The governing statute was enacted in 1973. Since the requirements of the statute have been in effect for over twenty five years, it has been determined that small businesses will not be affected by the proposed regulation beyond their past statutory responsibility.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), OES must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of OES would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

OES invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Written comments and inquiries concerning the substance of the regulations may be directed to:

Robert Mead
Planning and Technological Assistance Branch
Governor's Office of Emergency Services
Post Office Box 419023
Rancho Cordova, CA 95741-9023
Telephone: (916) 845-8766
Facsimile: (916) 845-8737

Inquiries concerning the rulemaking process or other non-technical questions may be directed to:

Primary Contact: Wendy Gibson (916) 845-8773

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS/INTERNET ACCESS

Pursuant to the California Government Code, OES has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Governor's Office of Emergency Services offices located at 3650 Schreiver Avenue, Mather, California, during normal working hours. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Lindsey Hamilton (916) 845-8738 or by accessing our Web site at the following address listed below.

15 DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, OES may adopt the Dam Inundation Mapping Procedures Regulations substantially as described in this Notice, without further notice. If OES makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public (including through the OES website as described above) for at least 15 days before OES adopts the Dam Inundation Mapping Procedures Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the agency contact person identified in the Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

OES is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. When the Final Statement of reasons is prepared, you may obtain a copy by contacting the agency person listed above or by accessing our Web site listed below.

INTERNET ACCESS

OES has posted on its website (www.oes.ca.gov) information and text regarding the proposed regulatory action. Select "Title 19" from the topics listed on the home page and scroll to the Dam Inundation Mapping Regulations section. This will connect you to web page links containing the information regarding the proposed regulatory action.